

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Edward A. Garvey
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LeRoy Koppendrayer
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Great River
Energy for a Certificate of Need for a High
Voltage Transmission Line

ISSUE DATE: May 28, 2002

DOCKET NO. ET-2/CN-02-536

ORDER GRANTING VARIANCE TO
EXTEND COMMENT PERIOD

PROCEDURAL HISTORY

On April 15, 2002, Great River Energy (GRE) filed a request for exemption from or confirmation of certain certificate of need filing requirements. The Company indicated its intent to file a certificate of need application for permission to construct a 115-kilovolt transmission line to meet increased demand in the service areas of Wright-Hennepin Cooperative Electric Association (WHCEA). The transmission facility would be a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2 (3) (2001 Supplement).

On April 17, 2002, the Commission issued a notice requesting comment on GRE's exemption request. The initial comment and reply comment deadlines given in that notice were April 29 and May 6, 2002, respectively.

The Commission met on May 9, 2002 to consider this matter.

FINDINGS AND CONCLUSIONS

The operative certificate of need rules¹ provide for a 30-day period for the Commission to review GRE's exemption request and to notify the Cooperative of its reasoning. (See Minn. Rules, part 7849.0200, subp. 6.) That 30-day period would end on May 15, 2002.

Having considered this matter, the Commission will vary Minn. Rules, part 7849.0200, subp. 6 to extend the period for Commission action on the exemption request to an unspecified but reasonable period of time, with the understanding that the meeting to review the request would be held as soon as practicable following receipt of the written comments.

The Commission's authority to grant this variance is found in Minn. Rules, part 7829.3200 which

¹ Minn. Rules, parts 7849.0010 to 7849.0400.

provides that the Commission shall grant a variance to a given rule when it determines that the following three conditions are met:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest; and
3. granting the variance would not conflict with standards imposed by law.

The Commission finds that these three conditions are met under the circumstances of this case. The Cooperative's exemption request and the applicable rules are sufficiently long and complicated that comments from the Department of Commerce and other possible intervenors likely would be very helpful to the Commission in deciding whether to grant the exemption request as filed. And since the solicitation of meaningful comments takes time, a 30-day review period would not allow sufficient time for review of the comments, the scheduling of a meeting, and the preparation of a written order.

In these circumstances, enforcement of the rule would impose an **excessive burden** on the Commission, the Department of Commerce, and other interested persons because of the short times available for comments and final action. Condition 1.

Second, the **public interest** would be poorly served by inadequate consideration of the exemption request. As indicated above, the long-term schedule likely will accommodate a review period longer than 30 days. In view of the fact that the Company's certificate of need application probably will raise issues never before faced by the Commission, thorough and careful evaluation of what should be in the Company's application is very important. Further, clarification of what should be filed may prevent later delays in the review process. Condition 2.

Third, the Commission finds that the extension would **not conflict** with any other standards imposed by law. Condition 3.

ORDER

1. The Commission varies Minn. Rules, part 7849.0200, subp. 6 to extend the period for Commission action on the exemption request to an unspecified but reasonable period of time, with the understanding that the meeting to review the request would be held as soon as practicable following receipt of the written comments.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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